IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 21725 of 1996

Between:

M/s Gouri Shankar Rice Corporation, Kodad, rep. by

Its Managing Partner P.Sitarama Prasad, S/o Ranga Rao,

Age 33 years, R/o Kodad, Nalgonda District.

..... PETITIONER

AND

1. The Superintending Engineer, Operation Circle, A.P.S.E.B,

Nalgonda, Nalgonda District.

2. The Assistant Divisional Engineer/DPE-II, Nalgonda,

Nalgonda District.

3. The Assistant Divisional Engineer (Operation)

APSEB Kodad, Nalgonda District.

4. The Assistant Accounts Officer, E.R.O, A.P.S.E.B.,

Kodad, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring the proceedings in Lr.No.SE/OP/NLG/Comml/F.No.9/D.No.4468/96 dated 23-09-1996 on the file of the first respondent as illegal one, without power or jurisdiction, in violation of provisions

of Section 26 of the Indian Electricity Act.

Counsel for the Petitioner: MR.A.BHASKARA CHARY

Counsel for the Respondents:

The Court made the following:

O R D E R:

Heard both sides.

The petitioner, which is a rice mill, seeks to assail the impugned demand notice dated 23-09-1996 by way of a Writ of Mandamus, whereunder the respondents sought to demand a sum of Rs.30,609-50 on the basis of back billing.

The case of the petitioner is that though he has been doing business regularly without any complaint, suddenly the impugned demand notice was passed by the first respondent which is totally unsustainable apart from the fact that no such back billing is permissible beyond the period of six months. Further, the petitioner was also not given any notice or opportunity to explain the alleged fault in the meter and as such, the same is illegal.

Having considered the submissions made on either side and also taking into consideration the fact that the inspection was conducted on 23-05-1996, the impugned demand notice was issued on 23-09-1996 and the petitioner has already deposited half of the demanded amount in pursuance of the interim order dated 11-10-1996 granted by this Court in W.P.M.P.No.26833 of 1996, the amount demanded by the first respondent is not only on higher side but also beyond the period of six months. In view of the same, I do not find any

justification in making such demand by the first respondent.

The writ petition is partly allowed. The amount demanded in the impugned notice is reduced to Rs.15,304-50ps. The amount which was already deposited by the petitioner shall be given credit to. No costs.

(**B. PRAKASH RAO, J**)

Date: 26-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the twenty sixth day of November, Two thousand and Four.

To

1. The Superintending Engineer, Operation Circle, A.P.S.E.B,

Nalgonda, Nalgonda District.

2. The Assistant Divisional Engineer/DPE-II, Nalgonda,

Nalgonda District.

3. The Assistant Divisional Engineer (Operation)

APSEB Kodad, Nalgonda District.

4. The Assistant Accounts Officer, E.R.O, A.P.S.E.B.,

Kodad, Nalgonda District.

5. Two C.D copies.